

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NORMAN MCCAIN,	:	CIVIL ACTION
	:	NO. 06-387
Plaintiff,	:	
	:	
v.	:	
	:	
CSX TRANSPORTATION, INC.,	:	
	:	
Defendant.	:	

**O R D E R**

**AND NOW**, this **23rd** day of **April 2010**, after consideration of Defendant's motion for summary judgment (doc. no. 24), it is hereby **ORDERED** as follows:

As to claims concerning Plaintiff's left knee, Defendant's motion for summary judgment is **GRANTED**;

As to claims concerning Plaintiff's right knee, Defendant's motion for summary judgment is **GRANTED** in part and **DENIED** in part. It is granted for claims based on the nature and size of the ballast, as precluded under Nickels v. Grand Trunk W. R.R., 560 F.3d 426 (6th Cir. 2009), and it is denied for claims based on Plaintiff's "squatting, bending and climbing up and down locomotive ladders."

**AND IT IS SO ORDERED.**

S/Eduardo C. Robreno  
EDUARDO C. ROBRENO, J.